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HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No. 2776 of 2003

Petitioner: Gukul Ram Nishad aged about 42 years, S/o Premlal Nishad, R/o Village Medha Post Arjuni, Thana & Tehsil Dongargaon, District-Rajnandgaon (C.G.)

Versus

Respondents:
1. The State of Chhattisgarh, through Secretary, Panchayat & Rural Department, D.K.S. Bhawan, Raipur.
2. The Collector, Rajnandgaon.
3. Chief Executive Officer, Janpad Panchayat, Dongargaon, District-Rajnandgaon (C.G.)
4. The Sarpanch, Gram Panchayat, Singarpur, Dongargaon, District-Rajnandgaon (C.G.)

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri**.

Shri Parag Kotecha, Advocate for the petitioner.

Shri Sandeep Dubey, Govt. Advocate, for the Respondents No. 1 and 2.

Shri Ram Krishna Sharma, Advocate for the Respondent No. 3.

Shri Kasif Shakeel, Advocate for the Respondent No. 4.

ORAL ORDER

(18th January, 2006)

The following order of the Court was passed by **Satish K. Agnihotri, J.**

1. The petitioner was appointed as Panchayat Karmi. Thereafter by virtue of order dated 18.06.1997 (Annexure P-1), passed by Collector, Rajnandgoan (C.G.), in exercise of his power under Section 69 (1) of the M.P./C.G. Panchayat Raj Avam Gram Swaraj Adhiniyam, 1993, he was appointed as Secretary, Gram Panchayat, Singarpur. The Gram Sabha, Singarpur, by its resolution dated 18.12.2002 (Annexure P-6) resolved to remove

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the petitioner from the post of Panchayat Karmi. It is submitted that the petitioner submits that the petitioner was not allowed thereafter to work as Panchayat Karmi. Being aggrieved, the petitioner has filed this petition impugning the resolution dated 18.12.2002 (Annexure P-6) praying that the petitioner be allowed to work as Panchayat Karmi.

2. Shri Parag Kotecha, learned counsel for the petitioner, submits that the petitioner has been removed from his services as Panchayat Karmi without complying the mandatory statutory provisions of Rule 7 of the M.P./C.G. Panchayat Service (Discipline and Appeal) Rules, 1999.

3. Shri Kasif Shakeel, learned counsel for the respondent No. 4 submits that resolution cannot be binding till an order as contemplated under Rule 6 is passed by the disciplinary authority or any authority to whom such authority is subordinate. In the present case, no order of removal has been passed by the competent authority and as such this petition is premature.

4. Shri Sandeep Dubey, learned counsel appearing for the respondents No. 1 and 2 submits that the State Government by its circular dated 8.10.2001 (Annexure P-7), has made it clear to all the Collectors and all the Chief Executive Officers that no order removing Panchayat Karmi from his services shall be passed without holding proper enquiry and it was further stated that provisions of Rule 7 of M.P./C.G. Panchayat Service (Discipline and Appeal) Rules, 1999, be complied with strictly in its letter and spirit.

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5. I have heard learned counsel for the parties and perused the records appended to the petition as well as the return, filed by the respondents.

6. Admittedly, resolutions cannot be challenged in revision or appeal. In view of the submissions made by learned counsel appearing for the respondent No. 4 that no resolution, passed by a Gram Sabha has binding effect until a proper order as contemplated under Rule 6 is passed by the competent authority, the action of the respondent was bad by not permitting the petitioner to work. In the present case no order for removal has been passed by any competent authority as contemplated under Rule 6 of the M.P./C.G. Panchayat Service (Discipline and Appeal) Rules, 1999. However, in the facts of the case, when by virtue of resolution dated 18.12.2002 (Annexure P-6), the petitioner has been restrained from working as Panchayat Karmi and he has not been paid any salary for the same, the respondent No. 4 is directed to allow the petitioner to work as Panchayat Karmi till proper order as contemplated under Rule 6 is passed by the competent authority. The petitioner will be entitled to his salary for the period when he was restrained by respondent No. 4 from working on the post of Panchayat Karmi.

7. For the reasons stated above, this petition is allowed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Arun